

\$58m spat is 'offshore' case, rules commercial court here

Ruling paves the way for foreign lawyers
registered with the SICC to argue in
dispute

K.C. Vijayan
Senior Law Correspondent

The Singapore International Commercial Court (SICC) has ruled that a US\$43 million (S\$57.8 million) spat between parties based in the United States and Singapore is an "offshore" case - paving the way for foreign lawyers registered with the SICC to argue in the dispute.

International Judge (IJ) Henry Bernard Eder found the case had no "substantial connection" with Singapore — a key requisite under SICC rules to qualify for offshore status.

He said the various claims and counterclaims in the case are all concerned with the provision of services to three liquified natural gas projects in or off Queensland, Australia.

"The vast majority of these services and the issues relating thereto have nothing whatsoever to do with Singapore," IJ Eder said in judgment grounds released last week.

The case is the first ruling by the SICC on what makes an offshore case, which means a party involved may be represented by foreign lawyers of their choice.

The SICC was launched last year to deal with transnational commercial disputes. Opposing parties involved may come from different countries to have cases heard here.

In this case, defendant Teras Cargo Transport (America) LLC had signed a contract with Bechtel Oil Gas and Chemicals and Bechtel International Inc for the provision of services and equipment in relation to three liquified natural gas projects in Australia.

US-based Teras Cargo had then subcontracted the work to Singapore firm Teras Offshore Pte Ltd.

Disputes arose and Teras Offshore took Teras Cargo to court, seeking US\$29 million in claims while Teras Cargo denied liability and counterclaimed for about US\$14 million.

As a preliminary issue, Teras Cargo, through lawyers Chew Kei-Jin and Tham Lijing, applied for the case to be treated as offshore, arguing there was an absence of a substantial connection to Singapore.

Teras Offshore lawyers Peter Doraisamy and Andrew Lee countered, among other things, that all its witnesses and relevant documents are in Singapore and even Teras Cargo had a (small) operational office here.

IJ Eder held that such factors showed some connection of the "action" with Singapore in a "procedural and administrative sense" but, taken together, were not "substantial". He noted that the claims of the plaintiff, made up of some 75 individual bills ranging from less than US\$1,000 to more than US\$2

million, relate to work done in Australia.

He said the court would be concerned in the main hearing to evaluate the "factual bases" from the evidence and this "action" bears no substantial link to Singapore.

The judge was mindful that, given the SICC's role to resolve international commercial disputes, "a parochial insistence that parties appoint Singapore qualified lawyers (even when there are only a handful of coincidental or procedural connections with Singapore) would be anomalous and self-defeating".

He added: "However, the question whether or not an action is an 'offshore case' must be determined by reference to a particular action; the focus must be the 'action' itself and whether it can properly be said that the action has no substantial connection with Singapore."

vijayan@sph.com.sg

The SICC was launched last year to deal with transnational commercial disputes. Opposing parties involved may come from different countries to have cases heard here.